



Neutral Citation Number: [2025] EWHC 3360 (Ch)

Case No: PT-2023-000207

**IN THE HIGH COURT OF JUSTICE**  
**CHANCERY DIVISION**  
**BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES**

Royal Courts of Justice, Rolls Building  
Fetter Lane, London, EC4A 1NL

Date: 23 December 2025

**Before :**

**Master McQuail**

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**Between :**

**SHAKA XAVIER DORANT**

**Claimant**

**- and -**

**(1) DESIREE RACHEL DORANT**

**Defendants**

**(2) GERARD BURTON**

**(3) TYLER DORANT**

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**Mr Aidan Briggs** (instructed by **Taylor Emmet LLP**) for the **Claimant**  
**Mr Daniel Burton** (instructed by **Ashtons Legal LLP**) for the **First Defendant**  
The **Second Defendant** in person  
The **Third Defendant** in person

Hearing dates: 16 and 17 September 2025

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**Approved Judgment**

This judgment was handed down remotely at 2:00 pm on 23 December 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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## **Background**

1. This is my judgment following the trial on written evidence of the following issue that arises within the course of the Court's kin inquiry in the estate of McDonald Peter Noel (**McDonald**):

“Which persons were the biological children of Stanley O'Brien Dorant (also Durant) (**Stanley**)?”  
(**the Issue**).

2. McDonald died in the Royal Free Hospital in London, intestate, unmarried, without parents or issue and domiciled in England and Wales on 24 April 2018. He left a net estate of something over £2m. In accordance with the provisions of sections 46 and 47 of the Administration of Estates Act 1925, the issue of McDonald's full siblings or, if none, of his half-siblings will be entitled to his estate.

3. As McDonald's birth certificate records, he was born on 13 December 1934 in Trinidad and his parents were Stanley and Neutrice Durant (formerly Noel) (**Neutrice**). If Stanley and Neutrice had other children together, those children or their issue will take McDonald's estate. If Stanley and Neutrice did not have any other children together, then the children of Stanley and the children of Neutrice, who were half-siblings of McDonald (or their issue), will take.

4. The possible candidates as other biological children of Stanley are Stella Mary Odessa Noel (**Stella**), Clyde Rickford Dorant (**Clyde**), St Clair Wesley Dorant (**St Clair**) and Francis Xavier Dorant (**Francis**), and and). Stella was a child of Neutrice; if Stanley was her father she would have been a whole sibling of McDonald and her issue would take to the exclusion of the issue of half-siblings. Clyde, St Clair and Francis were all children of Clementina Geraldine Forde (**Clementina**); if Stanley was the father of any of them they would have been half-siblings of McDonald. Stella, Clyde, St Clair, and Francis all died before McDonald.

5. As appears from McDonald's death certificate, Camden Council (**Camden**) was responsible for causing his body to be buried. As appears from documents signed by Richard King of Taylor Emmett LLP, in connection with obtaining a preservation grant to McDonald's estate, Camden instructed Hoopers, a firm of genealogists, to identify possible beneficiaries of his estate. Hoopers made contact with Shaka Xavier Dorant (**Shaka**), only son of Francis, Desiree Dorant (**Desiree**), one of the daughters of St Clair, and Gerard Burton (**Gerard**), only son of Stella, in 2019 concerning McDonald's estate. Hoopers signed up Shaka and Gerard as clients; the terms of the arrangements with Hoopers have not been disclosed.

6. Mr King obtained an *ad colligenda bona* grant dated 26 November 2019. Shaka instructed Taylor Emmet LLP to act for him and that firm extracted a grant of full letters of administration on 30 December 2020. At that stage Shaka and Gerard, would appear to have shared the view that Stella and Francis, and only Stella and Francis, were half-siblings of McDonald and, on that basis, an interim payment of £600,000 was paid to each of them. The estate accounts show that Hoopers were paid a 10% commission from the interim payment to Shaka and 24% from the interim payment to Gerard.

## **The Proceedings**

7. By his Part 8 Claim Form dated 16 March 2023 Shaka claimed against Desiree and Gerard an order that, unless Desiree issue and serve proceedings setting out her claim to be a beneficiary of McDonald's estate, Shaka, as administrator of that estate, be entitled to distribute on the footing that the only beneficiaries were Shaka and Gerard.

8. Gerard has acted in person these proceedings, save for a brief period in August and September 2024 when Freeths LLP were on the record for him. His acknowledgment of service signed on 31 March 2023 indicated that he did not intend to contest the claim and said in the free text space in Section A that:

“I support the Claimant position of being joint beneficiary with Shaka Dorant signed G Burton.”

Gerard filed a witness statement only in November 2024. It appears from his evidence that he completed the Acknowledgment as he did, because of his understanding of Hoopers' conclusions. Those conclusions were that, in the absence of the name of a father on Stella's birth certificate, Gerard would be able to establish only that Stella was a half-sibling of McDonald and, in the absence of the names of fathers on St Clair and Clyde's birth certificates, their descendants would not be able to establish that they were half-siblings. The first record of Gerard stating that he believed Stanley was his maternal grandfather was in his November 2024 witness statement.

9. Desiree's acknowledgment of service indicated that she would contest the claim. On 8 August 2023 Desiree issued an application within the proceedings seeking an order that there be an inquiry as to the persons beneficially entitled to McDonald's estate on his intestacy. Desiree was represented by Bolt Burdon during pre-action correspondence and since the commencement of proceedings by Ashtons Legal LLP.

10. On 15 August 2023 I ordered that there be an inquiry as to the beneficiaries of McDonald's estate, appointed Shaka and Desiree jointly to conduct the inquiry and gave permission to the parties to rely on the written evidence of a single joint expert in the field of genealogy. I also ordered that notice of the claim be served, pursuant to CPR 19.13, on Desiree's four siblings and such persons as the expert's report might identify as living children or issue of Clyde. Tyler Meagan Dorant (**Tyler**) was identified as a grandchild of Clyde and she was served with notice of the proceedings.

11. On 23 May 2024 I ordered that there should be a trial of the Issue on written evidence. I ordered also that Shaka should represent the persons descended from Francis, that Desiree should represent the persons descended from St Clair, Gerard should represent the persons descended from Stella and that Tyler be joined as Third Defendant and represent the persons descended from Clyde. Tyler has acted as a litigant in person throughout the proceedings.

12. The trial was originally listed to commence on 11 March 2025. In the weeks leading up to that date it became apparent that Gerard and Shaka had obtained a non-CPR compliant expert report on genetics from Dr Denise Syndercombe Court, Professor of Forensic Genetics and Director of DNA Analysis at King's College, London (**KCL**) on the basis of DNA samples provided by Gerard and Shaka and Shaka's half brother Nigel John D'Heureux (**Nigel**). An application to rely on the expert evidence had been prepared but not yet issued by the time the trial commenced (it was sealed on 12 March 2025). I adjourned the trial and gave directions that Shaka and Desiree have permission to rely upon an expert report of Dr Syndercombe Court to be written after an opportunity had been given to Desiree and her brothers David Dorant (**David**) and Dominic Dorant (**Dominic**) and Tyler to provide DNA samples. I also made an

order that Shaka and Gerard give disclosure of communications between them on the subject of DNA testing.

### **Shaka's Change of Position**

13. In a letter from Taylor Emmet LLP dated 30 May 2022 Shaka refused Desiree's offer for DNA testing between the two of them. It was explained by Shaka in his evidence in support of the Part 8 claim that testing between Shaka and Desiree was not likely to be conclusive. This is because Y-Chromosome or Y-DNA testing requires an unbroken male line to an ancestor and that was not possible as between Shaka and Desiree or as between Gerard and Shaka.

14. On 15 July 2024, Shaka emailed Hoopers explaining that he and Gerard wished to "secure" documentation that indicated Stella would have believed Stanley was her father.

15. In his Second Witness Statement dated 8 November 2024, Shaka acknowledged the possibility of Gerard being the sole beneficiary of McDonald's estate, aligning his position with that recently taken by Gerard.

16. In January and February 2025, Shaka drafted emails for Gerard to send to the Court, to the other parties and to KCL. In his 27 January 2025 email to KCL Shaka described himself and Gerard as "cousins through our grandfather, Mr. Stanley Dorant".

17. On 19 February 2025 Shaka and Gerard entered into a settlement agreement. By the terms of that agreement Shaka and Gerard agreed to undertake DNA testing to determine whether Gerard is a whole-blood relative of McDonald and agreed that, should it be determined that Gerard was a whole-blood relative of McDonald, Gerard would not seek to recover the interim payment made out of McDonald's estate to Shaka or other costs or liabilities paid out of the estate.

18. Shaka and Gerard's contact with KCL led to the production by Dr Syndercombe Court of the non-compliant expert report upon which Gerard made his application to rely.

### **The Evidence**

19. The following witness statements have been filed in the claim:

- (i) first witness statement of Shaka dated 15 March 2023;
- (ii) first witness statement of Desiree dated 27 April 2023;
- (iii) second witness statement of Shaka dated 8 November 2024;
- (iv) first witness statement of Johanna Dorant (**Johanna**), St Clair's widow and Desiree's mother, dated 6 November 2024;
- (v) first witness statement of Denise Dorant (**Denise**), Desiree's sister, dated 7 November 2024;
- (vi) second witness statement of Desiree dated 11 November 2024;
- (vii) first witness statement of Tyler, undated; and
- (viii) first witness statement of Gerard dated 21 November 2024.

20. The following expert evidence was before the Court:

- (i) report of Dominic Hendry of Estate Research Limited dated 11 April 2024 together with answers to questions posed by each of Shaka and Desiree's solicitors contained in two letters of the same date;
- (ii) final DNA report of Dr Denise Syndercombe Court dated 22 August 2025 together with:

- (a) answers to the claimant's questions dated 26 August 2025;
- (b) answers to the first defendant's questions dated 26 August 2025;
- (c) answers to the claimant's further questions dated 30 August 2025; and
- (d) answers to the first defendant's further questions dated 15 September 2025.

21. The trial bundle included a number of copies of formal certificates of entries in registers of births, marriages and deaths. In some cases there were certificates of the same event obtained at different times, so for example there was a photograph of a hand-written certificate of Stella's birth obtained in the 1950s as well as a copy of a word processed version certificate dating from 2020. There were some inconsistencies between different versions of the certificates. It was also notable that a number of the birth certificates did not include the child's given name. No party disputed the key evidence to be derived from the content of the certificates.

22. In addition the trial bundle included an academic paper entitled "Explaining Caribbean Family Patterns" by Timothy T. Schwartz which discusses economy and family in the Caribbean including in the 1930s. There was also a BBC article about some of the challenges in researching genealogy for those with Caribbean ancestors.

### **The Parties' Positions**

23. At the hearing the parties' positions were as follows:
- (i) Shaka: Stanley fathered Francis and McDonald only, with the result that the estate is split into two shares and he and Gerard are the only beneficiaries;
  - (ii) Desiree: Stanley fathered Francis, St Clair, Clyde and McDonald, with the result that the estate is split into four shares;
  - (iii) Gerard: Stanley was the father of Stella with the result that Gerard would be entitled to the whole of McDonald's estate;
  - (iv) Tyler: Stanley fathered Francis, St Clair, Clyde and McDonald, with the result that the estate is split into four shares. Possibly alternatively, Stanley was not Francis' father, with the result that the estate is split into three shares.

### **The Law**

#### **Kin inquiries**

24. *Williams, Mortimer & Sunnucks* on Executors, Administrators and Probate (22nd Ed.) explains as follows at [53-13]:

"One of the claims expressly mentioned in CPR PD64A is a claim for the determination of any question as to the composition of any class of persons having a claim against the estate or a beneficial interest in the estate. It is still occasionally necessary to hold such an inquiry when it is uncertain who are the next of kin of an intestate, or who are the members of a class of relations specified in a will. If such an inquiry is made the Master may direct advertisements for the kin or class in question and will adjudicate on the claim of any person coming in answer to the advertisement."

25. The Court has jurisdiction to make a "Benjamin Order", after the decision in *Re Benjamin* [1902] 1 Ch. 723. A Benjamin Order is usually made where a beneficiary is missing or presumed to be dead. However, the jurisdiction is extensive and if the personal representatives cannot be sure who is entitled, they can ask the Court to determine the matter and give leave to distribute on a particular footing. In doing so, the personal representative is protected from liability – but a recipient of estate property is not, see for example *Re Diplock* [1951] A.C. 251 (HL). *Williams, Mortimer & Sunnucks* explains at [61-18]:

“Various expressions have been used to describe the circumstances in which the jurisdiction will be exercised. It has been said, for example, that an order will be made where the proposed distribution reflects the practical probabilities of what has happened (*Re Green’s Will Trusts* [1985] 3 All E.R. 455 at 462.) or is based on the probable inferences (*Hansell v Spink* [1943] Ch. 396 at 399.), or where there is satisfactory prima facie evidence of practical impossibility of proof of the facts or events in question (*Re Gess* [1942] Ch. 37 at 39) or where every reasonable step has been taken to trace the individuals in question and it was most improbable that any such individual would ever establish a claim (*Re Lowe’s Will Trusts* [1973] 1 W.L.R. 882 at 887). Where there remains a theoretical possibility of beneficiaries appearing despite their long absence, the court will consider whether it is just that the enjoyment by the known beneficiaries of their apparent interests should be further postponed (*Re Green’s Will Trusts* [1985] 3 All E.R. 455 at 462).

### **Burden of Proof**

26. *Phipson* on Evidence (20th Ed.) at [6-06] explains that the general rule in civil cases is that the burden of proof lies upon the party who substantially asserts the affirmative of the issue, citing *Robins v National Trust Co* [1927] A.C. 515 at 520 and *Huyton-with-Roby UDC v Hunter* [1955] 1 W.L.R. 603. In a kin inquiry, if a specific relationship is averred by a party, then the burden of proof rests on that party. If the Court is not satisfied that there is sufficient evidence to make the finding, then the specific relationship is not established.

### **Presumption of Paternity**

27. At common law a child born to a woman during her marriage is presumed to be the child of her husband, even if conceived prior to the date of the marriage - *Gardner v Gardner* (1877) 2 App Cas 723. Section 26 of the Family Law Reform Act 1969 provides that the standard of proof required to rebut a presumption of legitimacy or illegitimacy is the balance of probabilities. As explained in the *Banbury Peerage Case* (1811) 1 Sim & St 153, HL evidence to rebut the presumption might be “evidence that such access did not take place between the husband and wife as by the laws of nature is necessary in order for the husband to be, in fact, the father of the child”.

### **Formal Records**

28. Section 34 of the Births and Deaths Registration Act 1953 provides that an entry or certified copy of an entry in an English register of births and deaths is prima facie evidence of all the facts required by statute to be entered in it.

### **Foreign Law**

29. Foreign law is presumed to be identical to English law unless a party proves otherwise - *Brownlie v FS Cairo (Nile Plaza) LLC* [2021] UKSC 45.

### **Expert Evidence**

30. An expert does not supplant the court as the ultimate tribunal of fact and the court is entitled to reject expert evidence if it is inconsistent with other facts found proven - *Kennedy v Cordia (Services) LLP* [2016] UKSC 6; [2016] 1 W.L.R. 597 at [49].

### **Rules of evidence**

31. Section 7(3) of the Civil Evidence Act 1995 preserves the common law rule that evidence of reputation or family tradition is admissible as proof of pedigree (that is, family relationships)

or marriage. The result is that such evidence is not subject to the notice or weighting requirements contained in sections 2 and 4 of the 1995 Act.

32. The rule applies to matters of pedigree or genealogical purpose and is explained in *Phipson* at [32-09]:

“Declarations by deceased relatives, made ante litem motam (that is, before the commencement of the controversy), and assertions implied by family conduct, are admissible to prove matters of family pedigree. The grounds of reception are (1) death; (2) necessity, such inquiries generally involving remote facts of family history known to but few, and incapable of direct proof; and (3) the peculiar means of knowledge and absence of interest to misrepresent of the declarants—members of the family having the greatest interest in seeking, the best opportunities of obtaining, and the least motives for falsifying, information on such subjects. “I suppose the ground is that they were matters relating to a long time past, and that it was necessary to relax the strict rules of evidence for the purpose of doing justice.” (*Sturla v Freccia* (1880) 5 App. Cas. 623 at 641, per Lord Blackburn).”

33. A declaration from a deceased person as to his own pedigree is admissible, see *Phipson* at [32-13], citing *Sturla v Freccia*. However, the declarant’s relationship must be proved independently by prima facie evidence, as explained in *Phipson* at [32-14].

34. *Phipson* at [32-17] says this:

“The following are some of the principal forms in which hearsay upon matters of pedigree may be tendered: oral statements; family correspondence; recitals or descriptions in deeds, settlements and wills (even if cancelled or invalid); or entries in almanacs, prayer-books and missals.

and at [32-20] this:

“Family conduct and treatment—e.g. the tacit recognition of relationships; the distribution of property; the omission of particular persons from mention or benefit in family wills and settlements are admissible as showing acknowledgment or the reverse by the family, though such facts fall, more properly, under the head of original evidence than of hearsay, since they are not used as declarations to prove the truth of the matter stated, but merely as relevant conduct.”

### **Registration of births in Barbados**

35. The law in force in Barbados in the 1930s which governed the registration of births was the Barbados Births Baptisms Marriages and Burials Act 1891 (**the 1891 Act**). Section 6 of the 1891 Act provided a form of register for births which included, inter alia, “Parents’ names” and “Rank or profession of father”.

36. Section 6(1) of the 1891 Act provided different requirements for the inclusion of the father depending on whether the parents were married:

“The father of every legitimate child, or the mother, if the father is dead, or, if both the father and mother are dead the possessor or occupier of the house, or of the apartment or dwelling in which such child is born, or the head of the family or household or, of the persons residing or being in such house, apartment or dwelling; and the mother of every illegitimate child, or, if the mother is dead, the possessor or occupier of the house, apartment or dwelling in which such child is born, or the head of the family or household or of the person residing or being in such house, apartment or dwelling, shall

within forty two days after the birth of any child whether the same be born alive or be stillborn, give or cause to be given notice of the district in which such child be born, and such notice shall contain and express the following particulars; that is to say, the day of birth of the child; the sex of the child; the name of the child if a name has been given to it; the names, abode and quality, trade, or profession of the father and mother, if the child is legitimate; and if illegitimate the name, abode, and quality or occupation of the mother; and, if the child is still-born, such fact shall be stated.”

### **Registration of births in Trinidad & Tobago**

37. The law in force in Trinidad in the 1930s was the Births and Deaths Registration Act 1847 (**the 1847 Act**), section 20 (the version in force between 1925 and 1940) of which provided as follows:

“In the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Ordinance concerning the birth of such child, and the Registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register, together with the mother.”

### **DNA Evidence**

38. Following my order in March Desiree and Dominic both provided DNA samples to KCL so that Dr Syndercombe Court was able to conduct her analysis and report on the basis that she had DNA samples from Shaka, Nigel, Gerard, Desiree and Dominic. Despite assistance from both Shaka and Desiree’s solicitors it did not prove possible to obtain a DNA sample from Tyler or any other descendants of Clyde in the time-frame necessary to ensure the expert report would be available for the adjourned trial.

39. Two analytical techniques were used by Dr Syndercombe Court:

(i) Autosomal DNA kinship testing, which examines areas of the non-sex chromosomes that have regions of DNA where there are short sequences of different chemicals that are repeated one after another. These are called “short tandem repeat” (**STR**) sequences. The number of repeats or alleles are variable but alleles are inherited at each locus one from each parent. 44 STR loci have been examined. A statistical analysis has then been applied to compare the individual results with datasets of an ‘African Caribbean’ population to produce a Likelihood Ratio (**LR**). LRs indicate the relative probability of one hypothesis compared to another mutually exclusive one, here: “asserted relationship v unrelated”. This leaves out the possibility of being related in some other way. As Dr Syndercombe Court points out an LR is not a probability because that would require the incorporation of prior probabilities which the tester could not know. From the report it appeared that no correction was applied for a particularly isolated population; the data analysis was based upon a generic African-Caribbean population. The expert explained in answer to a question from Desiree’s solicitors that this is because the population database used sufficiently reflects the substructure and admixture of the relevant populations;

(ii) Y chromosome DNA lineage testing, which is an analysis of the male sex Y chromosomes which are passed virtually intact from father to son, subject to mutations. LRs are not applied in this context.

40. The expert’s report acknowledges the limitations to her analysis:

- (i) on average, an individual will share about 25% of their DNA with each grandparent but the sharing is variable as between grandchildren and some components may be shared between individuals just because they are common in the population;
- (ii) “inferring a grandparental link in complex families is difficult and the strength of the evidence is never likely to produce high LR’s because of the uncertainty of sharing of components that are common in the population, and the variable low level of transmission of material from a common grandparent to a grandchild”;
- (iii) the conclusions depend on assumed relationships between individuals; the LR changes depending on what other relationships are assumed. For example, Dominic and Desiree are 1 billion times more likely to be related as full siblings than unrelated but 96 thousand times more likely to be related as full siblings than being half siblings.

41. The expert’s relevant conclusions are as follows:

- (i) it is 4 times more likely that Stanley was Stella’s father than unrelated to her, ignoring St Clair as a descendant of Stanley, with a false positive rate of 4%;
- (ii) it is 1.3 times more likely that St Clair was not Stanley’s son (LR 0.75), assuming Francis was Stanley’s son, but the level of error is 30% so the question should be considered unresolved. If Stella is also assumed to be Stanley’s daughter, this goes up to an LR of almost 12;
- (iii) it is 11.5 times more likely that Shaka, Dominic, Desiree and Gerard all share a grandfather than that Shaka, Dominic and Desiree (but not Gerard) do, whereas the relative likelihoods in comparison with all except Dominic and Desiree (LR 2.2) or all except Shaka (2.9) sharing a grandfather are lower. The error rate is under 1%.
- (iv) the Y-chromosome analysis supports Shaka and Dominic sharing recent paternal lineage. If they have the same common male ancestor they would be expected to share the same Y chromosome haplotype. In fact there is one difference in one allele, which could be explained by a mutational event. The chance of a one-step mutational event occurring in the lineage between them plus the rarity of the haplo type is high enough to support to a recent shared paternal lineage with Stanley;

42. Dr Syndercombe Court confirmed in her letter of 26 August 2025 that there is a standard scale of verbal equivalents for LR values found in the relevant European Network of Forensic Science Institutes guidelines. An LR value of 1 means “the forensic findings do not support one proposition over the other.” An LR value of 1-10 means “the forensic findings provide weak support for the first proposition relative to the alternative.” An LR value of 10-100 means “the forensic findings provide moderate support for the first proposition rather than the alternative.” Higher LR values mean that the findings are more supportive of the first proposition compared to the alternative. In the case of *In re Birtles* [2018] EWHC 299 Judge Paul Matthews was asked to order that the defendant submit to DNA testing to assist in determining whether both the claimant and defendant were daughters of a particular man. The expert intended to be instructed was Dr Syndercombe Court and in a letter that was before the Court she explained that so far as concerned cousins she “would typically recommend working on a ratio of 20:1 ... so that it is 20 times more likely that the relationship of cousins exists than not. At that ratio the chance of a successful test is 50%.”

43. Both Mr Burton and Mr Briggs cautioned in their submissions against giving too much weight to the autosomal DNA evidence because of the low LR’s and the fact that the various hypotheses of relationship were being tested against the hypothesis “unrelated” (rather than against other possible relationships).

44. Mr Burton urged me to have rather more confidence in the Y-DNA testing as between Shaka and Dominic to demonstrate that Stanley was a shared paternal ancestor. As Mr Briggs pointed out the possibility of them sharing a great-grandfather would also explain the Y DNA result.

### **The Evidence of the Certificates of Births, Marriages and Deaths**

45. Stanley's birth certificate shows that he was born in the parish of St Michael, Black Rock, Barbados on 20 December 1906. His death certificate records that he died on 29 June 1968 in Trinidad.

46. Clementina's birth certificate shows that she was born in the parish of St Michael, Barbados on 21 April 1905. Her death certificate records that she died on 30 November 1985 in Trinidad.

47. Neutrice's death certificate shows that she died on 17 February 1938 in Trinidad at the age of 30. Her surname on her death certificate is Noel. There is no evidence that she ever married or that she had children other than McDonald and Stella.

48. Stella's birth certificate shows she was born in Trinidad on 10 March 1933. Her mother's name is recorded as "Neutrice Noel" and Neutrice's occupation as "Domestic". There is no entry for the father's name. The informant is recorded as an "assistant hospital clerk" at Port of Spain Colonial Hospital where she had been born. Stella married Garfield Uriah Burton on 15 November 1958 at Westminster Cathedral in London. The marriage certificate records her father as "Stanley Durant Noel, Contractor Mason." Her own name is given as "Stella Odessa Mary Noel." Stella died in Croydon, London on 26 February 2017; her death certificate records her maiden surname as "Noel". The informant was Gerard.

49. Clyde's birth certificate shows he was born in St Michael, Barbados on 5 October 1933. It records his mother's name as "Clementina Forde" and Clementina's occupation as "Shop Attendant" but has no entry for the name of the father. The informant is recorded as Clementina.

50. McDonald's birth certificate shows he was born in Trinidad on 13 December 1934. His mother's name is recorded as "Neutrice Durant", her former name as "Noel" and her occupation as "Domestic servant". His father's name is recorded as "Stanley Durant" and his occupation as "Mason". The informant is recorded as Neutrice.

51. St Clair's birth certificate shows he was born in St Michael, Barbados on 30 September 1936. It records his mother's name as "Clementina Forde" and her occupation as "Shop attendant" but has no entry for the name of his father. (One of the later copies of the birth certificate records his father's profession as "shop attendant", but that would seem likely to be a transcription error.) The informant is recorded as "H S Waite of St Michael's Almshouse."

52. Stanley and Clementina's marriage certificate shows that they married on 27 February 1939 in Trinidad. Clementina's occupation is recorded as "Domestic Duties", Stanley's as "Mason". Both of their addresses are recorded as 3 Church Street St James.

53. Francis's birth certificate shows he was born in Trinidad on 1 October 1939. It records his mother's name as "Clementina Dorant" and her former name as "Forde" and his father's name as "Stanley Dorant". The informant is recorded as Clementina.

### **Other Relevant Formal Documents**

54. A letter dated 18 August 2023 from the Barbados Police Service in answer to an enquiry from Desiree's lawyer states that its records show that an "S Dorant" was medically discharged from his employment as a writ server with the Barbados Police Service on 30 September 1931.
55. A number of copies of passenger manifests were in evidence. In each case the document was certified a true copy of the original by the Government Archivist of Trinidad and Tobago:
- (i) the manifest of British Steamer Colborne shows that a Stanley Durant arrived in Trinidad on 4 July 1932, having travelled from Barbados;
  - (ii) the manifest of a Dutch Steamer shows a Stanley Durant departing Trinidad on 23 December 1935 for Barbados;
  - (iii) the manifest of a British Steamer shows a Stanley Durant arriving in Trinidad on 26 February 1936 having travelled from Barbados.
56. In Clementina's application for citizenship of Trinidad and Tobago signed in 1963, Clementina declared that she had been ordinarily resident in Trinidad and Tobago since 1939 and stated that the first address where she lived was 3 Church Street, St James.
57. In St Clair's application for citizenship of Trinidad and Tobago signed in 1969, St Clair declared that he had been ordinarily resident in Trinidad and Tobago since 1939.
58. On 1 February 1956 Clementina made a statutory declaration that the person named St Clair Wesley born on 30 September 1936 at Black Rock Barbados was also known as and called St Clair Wesley Dorant and that he was 'born of Clementina Dorant his mother'. No father was named.
59. On 12 July 1969 Clementina obtained a grant of letters of administration to Stanley's estate, being entitled as his widow.
60. In April 1969 St Clair applied for a birth certificate and named Stanley as his father in the application.
61. In Stella's Certificate of registration as a citizen of the UK and the Colonies dated 13 August 1982 she gave her name at birth as "Noel".
62. Clementina's will made very shortly before she died in November 1985 left her estate equally between Clyde, St Clair and Francis.
63. On 23 February 1996 St Clair made a statutory declaration that he had always been known as "St Clair Wesley Dorant" and that the information on his birth certificate referred to his mother before her marriage to Stanley.
64. On 26 August 1996 one Parker Nicholas made a sworn statement that he had known St Clair for over 30 years and that he was 'named after his father, "DORANT".
65. On 21 November 2008 Francis took out a grant of letters of administration to Clementina's estate recording that she had died intestate (notwithstanding the 1985 will).

66. By a Deed of Assent dated 29 January 2009 Clyde and St Clair relinquished their share of the land comprised in Clementina's estate and that land was assented to Francis.
67. On 31 March 2011 St Clair made a statutory declaration that he was the 'lawful' son of Stanley and made a similar statutory declaration on 2 December 2013. In each case stating that there was no one else who could attest to the matter.

### **Other Relevant Documents**

68. On 19 July 1994 St Clair wrote to the Director of Personnel Administration in Trinidad giving notice of his intention to retire and enclosing Stanley and Clementina's marriage certificate described as the "Certificate of marriage of parents".
69. The newspaper obituary notice for Francis who died on 4 September 2012 referred to his parents as Stanley and Clementina and his brothers as St Clair and Clyde, with no mention of McDonald.
70. The order of service giving the details for St Clair's funeral following his death on 28 November 2015 refers to him as the son of Clementina and Stanley and brother of Clyde and Francis, with no mention of McDonald.
71. Clyde died on 25 January 2017. The leaflet giving the details for his funeral refers to him as the son of Clementina and Stanley and brother of Francis and St Clair and the uncle of Desire (sic) and her siblings as well as Shaka and his deceased brother. It also refers to him as the father of more than 6 children.
72. There are a number of copies of greetings cards in the bundle sent from Clyde and Francis to McDonald addressing him as brother and one from Clyde to St Clair with the same salutation.
73. There are also many documents showing St Clair's consistent use of the surname Dorant throughout his life. These also evidence St Clair's career as a printer, his educational achievements studying theology in his later life and his ordination as a minister, as well as his appointment as a justice of the peace.

### **The Witness Evidence**

74. The witness evidence concerning Stella's paternity is as follows:
- (i) in his second witness statement, Shaka provides evidence of a verbal declaration of his mother, Ruby D'Heureux, made in or around 2005 that Stanley fathered two children with another woman, presumably Neutrice, before marrying Clementina. He says that she told him McDonald was the elder and that Neutrice died giving birth to Stella. As Shaka acknowledges the detail about Stella is wrong;
  - (ii) in his witness statement Gerard states that Stella told him that Stanley was her father but that she never mentioned McDonald or any half-brothers in Trinidad;
  - (iii) in her witness statement Denise describes a recollection that St Clair stated to her that he had a half-sister, Stella, who was a doctor, lived in Germany was not married and had no children. Again the detail she says St Clair reported about Stella is not accurate.
75. The witness evidence concerning Clyde's paternity is as follows:

- (i) Tyler's witness statement asserts that St Clair, Clyde and Francis were brothers and that she and her family are just as much descendants of Stanley as Shaka;
- (ii) Desiree's evidence is that Francis and Clyde were full-blood brothers of St Clair.

76. The witness evidence concerning St Clair's paternity is as follows:

- (i) Desiree's witness statements contain her evidence that St Clair consistently referred to Stanley as his father, referred to McDonald as his half-brother and was in contact with him, even after he moved to London. She says that McDonald was brought up by neighbours after Neutrice's death. She also explains that St Clair was in contact with his brother Francis and that Francis never suggested that Stanley was not St Clair's father. Her evidence is that St Clair was a responsible, hard-working, ambitious and socially aware man who became a justice of the peace and would not have taken lightly the matter of swearing statutory declarations as to his paternity. It was Desiree who discovered much of the documentation concerning Stanley, in particular the passenger manifests, and concerning St Clair and his consistent statements in various contexts that he was Stanley's son;
- (ii) Johanna Dorant is clear in her evidence that her husband told her that Stanley was his father and that he maintained this even though Stanley had abandoned Clementina and his brothers, Clyde and Francis. Johanna's evidence is that there was a striking resemblance between McDonald and St Clair, having met them both. Johanna also gives evidence as to the character of Clementina and refutes Shaka's insinuation that she would have had two children with a different partner or partners and then marry Stanley and pass her children off as his. Her evidence is that Clementina's relationship with Stanley caused a rift with her family but she was essentially stuck with her choice of partner. Johanna's evidence is that there was no controversy over St Clair's parentage until Shaka raised it in these proceedings;
- (iii) in Shaka's witness statement he explains that Francis told him that at one point Clementina burnt the house down in order to get rid of Stanley because of his behaviour and later rebuilt a home for herself and her three boys. He also explains that Stanley, McDonald, Francis, Stella and he are dark skinned while Clementina, Clyde and St Clair are not and says that McDonald and Francis looked very alike.

77. The only witness evidence that questions Francis being the son of Stanley is in Tyler's witness statement where she says: "Many [people from St James] even told me that Francis isn't even Stanley biological child."

### **Genealogy**

78. Neither Hoopers nor Estate Research Limited have been of assistance in advancing matters beyond the evidence contained in the formal documentary records of births, marriages and deaths.

### **The Court's approach**

79. I am being asked to determine the paternity of children born in the 1930s. Absent conclusive DNA results, there can be no certainty and so I must do my best on the available evidence. The outcome or leave to distribute must reflect the practical probabilities of what occurred.

80. That a father is not named on a birth certificate is obviously not proof of a lack of paternity of the individual in question. The following circumstances are relevant:

- (i) in the case of the Barbadian births, Clementina, being unmarried, was precluded by law from having the name of the father entered on the certificate;
- (ii) in Trinidad, Neutrice, despite being unmarried, was able to have a father's name entered on her children's birth certificates if she and the person acknowledging himself to be the father jointly requested it and he signed the register. In the case of Stella Neutrice did not procure the father's acknowledgment and signature. In the case of McDonald she did procure Stanley's acknowledgment and signature.

81. I have in mind in assessing the totality of the evidence the dicta of Leggatt J in *Gestmin SGPS SA v Credit Suisse (UK) Ltd* [2020] 1 C.L.C. 428 (Comm.) at [20] and following and specifically that "the best approach for a Judge to adopt ... is to place little if any reliance at all on witnesses' recollections of what was said in meetings and conversations, and to base factual findings on inferences drawn from the documentary evidence and known or probable facts." I must balance that dicta with the rationale for admitting evidence of reputation or family tradition so far as questions of pedigree are concerned, as explained in the passages from *Phipson* and the cases there cited to which I have referred.

82. Each of Gerard, Tyler and Desiree have the burden of proving that their respective parent or grandparent was a child of Stanley. If I am not satisfied with the evidence, then the relationship is not proven. That it cannot be established who else might have been a particular child's father does not mean I should presume it was Stanley.

83. So far as concerns Francis, Shaka has the benefit of a presumption that Francis is the child of Stanley as he was born during the marriage of Stanley and Clementina and both parents are named on Francis's birth certificate. If I am not satisfied that the presumption has been rebutted then I should conclude that Stanley and Clementina were Francis's parents.

84. I have read and heard the submissions of Mr Briggs, Mr Burton, Gerard and Tyler. I consider that the proper approach to the evidence concerning each of Stanley's possible children is to examine it in the following stages:

- (i) is there any legal presumption applicable?
- (ii) were the relevant putative parents co-located at around the time of conception?
- (iii) is there any contemporaneous or subsequent written acknowledgment by either parent?
- (iv) what assertions have been made by the relevant child and when?
- (v) does the expert DNA evidence support or contradict the likely conclusion?

85. The witness evidence about the appearance of Stanley's possible children is not easily resolvable. Johanna says St Clair and McDonald looked alike. Shaka says that their skin tone was different. The photographs in the bundle are not such as to enable me to draw any meaningful conclusions. I do not consider that this material is of assistance in resolving the Issue.

86. The anthropological material is very interesting but so far as concerns the Issue before the Court provides only background context and serves as a warning about making any particular assumptions about families. Johanna's evidence of Clementina's character and how it might influence my conclusion about the father or fathers of her children is of no real assistance. Similarly Desiree's evidence about St Clair's character adds little to the fact that may be deduced from the many documents that St Clair was determined that the official record showed that Stanley was his father.

87. There are two further points I should mention:
- (i) the duration of pregnancy is generally reckoned as 40 weeks from the start of the mother's last menstrual period, however conception will happen some time later so that the actual duration of gestation is less than 40 weeks; and
  - (ii) the distance from Barbados to Trinidad is around 230 statute miles, so that a 1930s steamship travelling at 10-15 knots would take 14-20 hours or less than one day to travel between them.

## **Discussion and Conclusions**

### **Francis**

88. Francis has the benefit of the legal presumptions to which I have referred. Tyler's evidence the other way is hearsay and ill-particularised and she does not even say that she believes Francis not to be Stanley's child. I conclude that Francis was the child of Stanley and Clementina.

### **Stanley and Clementina's Relationship and Marriage**

89. Francis was born on 1 October 1939, the 274<sup>th</sup> day of the year. Stanley and Clementina married on 27 February 1939. Clementina arrived in Trinidad no earlier than the beginning of 1939 and her first address was the same as the address she and Stanley both gave as their residence at the date they were married. Stanley and Clementina were born in consecutive years in the same area of Barbados and had the opportunity to meet and to form a relationship before Stanley set off for Trinidad in 1932. To marry within 8 weeks of first meeting would be highly improbable even though Clementina was pregnant with Francis; it is apparent from the other evidence in this case that conceiving a child together did not necessarily impel couples to marry. The combination of the evidence of the addresses of Stanley and Clementina in their marriage certificate, Clementina's declared addresses when she first arrived in Trinidad as well as the date of Francis's conception indicate that Clementina and Stanley began living together and decided to marry immediately after she arrived in Trinidad; that state of affairs is consistent with and makes probable that their relationship had commenced at an earlier time. I conclude that Stanley and Clementina had had a relationship before Clementina arrived in Trinidad.

90. The evidence in St Clair's citizenship declaration that he came to Trinidad in 1939 makes clear that he arrived with Clementina as a small child. There is no similar evidence about Clyde's arrival, but I infer on the balance of probabilities that he too must have arrived with Clementina as a small child. The evidence is that Clyde, St Clair and in due course Francis lived throughout their childhoods in the same household as Clementina; a household from which Stanley was at some stage evicted. All three of Clementina's children used Stanley's surname. The evidence of the obituary and funeral documentation for Clyde, St Clair and Francis indicates that they believed and their wider family believed that they were brothers and that all three were Stanley's children.

91. The evidence of contact with McDonald indicates that all of Clyde, St Clair and Francis considered that they had a brotherly relationship with him, but they cannot have believed that they were his whole-brothers; they knew he had a different mother. The content of the funeral and obituary notices for all of Clyde, St Clair and Francis is that each used the name Dorant and described each other as brothers. However they all grew up in the household of their mother and all used the name she took on marriage to Stanley. The fact that McDonald was referred to as "brother" without qualification by Clyde, St Clair and Francis weakens any inference that by referring to one another as "brother" Clyde, St Clair and Francis necessarily

understood themselves to be or intended to mean that they were all three brothers of the whole blood.

### **St Clair**

92. There are no legal presumptions so far as concern St Clair.

93. There is no evidence of acknowledgment by Stanley of St Clair as his child. Clementina's 1956 declaration as to St Clair being known and called "Dorant" makes no direct mention as to Stanley's paternity.

94. The relevant passenger list shows that Stanley left Port of Spain, Trinidad on 23 December 1935 for Barbados, the likelihood is he arrived the next day in Barbados. St Clair was born on 30 September 1936 282 days or 40 weeks and 3 days later in Barbados.

95. I have concluded that Stanley and Clementina had a relationship which pre-dated Clementina's 1939 arrival in Trinidad. That, combined with the co-location of Stanley and Clementina in Barbados at around Christmas/New Year 1935/1936 and the date of St Clair's birth, leads me to the conclusion that it is more probable than not that Stanley was St Clair's father.

96. My conclusion is consistent with St Clair's apparent life-long use of the surname Dorant and his declarations that Stanley was his father. St Clair's belief as to his paternity must have derived from what he was told by Clementina and he must have accepted it. Clementina, uniquely, was in a position to say that Stanley was not St Clair's father, if that were the position. There is no evidence that she did that, rather she provided a declaration as to St Clair's surname being Dorant in 1956. The difficulty with all this evidence is that Clementina never made any admissible statement that Stanley was St Clair's father and St Clair's relationship would need to be proved independently for St Clair's own statements to be admissible.

97. The autosomal DNA evidence goes the other way to my conclusion about St Clair's paternity, but not at a level that the question should be considered resolved. That St Clair was Stanley's son is consistent with the Y-chromosome DNA evidence and the sharing of a paternal ancestor between Shaka and Dominic, although that evidence alone would not enable me to conclude on the balance of probabilities that Stanley was St Clair's father.

### **Clyde**

98. Again there are no legal presumptions so far as Clyde is concerned and nor is there any evidence of acknowledgment by Stanley.

99. The position with Clyde is much less clear than with St Clair. There is no evidence that Stanley was in Barbados at the time when Clyde must have been conceived; no evidence of a journey either from Trinidad to Barbados nor back again has been located in the relevant timeframe. Clyde would not appear to have ever asserted in any formal document that Stanley was his father, although he did use his surname. Despite being given ample opportunity, no DNA sample has been provided by any descendant of Clyde.

100. In the absence of evidence of co-location of Stanley and Clementina at the relevant time, to conclude that Stanley was Clyde's father would require an inference from the known facts that Clementina would not have conceived a child with anyone other than Stanley in around

early January 1933. There is no material from which such an inference might reliably be made. I am unable to conclude on the balance of probabilities that Stanley was Clyde's father.

### **Stella**

101. There is no documentary evidence of Stanley being in Trinidad earlier than 4 July 1932 and there is no record of Neutrice ever travelling to Barbados. Stella was born to Neutrice on 10 March 1933 in Trinidad. Assuming Stanley is the "S Durant" in the relevant passenger manifest, his arrival in Trinidad was only 35 weeks and 4 days before the date of Stella's birth. Even if Stella were conceived immediately after Stanley's arrival in Trinidad her birth would have been premature which, in the absence of any other evidence, is less likely than not.

102. On Stella's birth certificate Neutrice's name is stated as "Neutrice Noel" and the father's name is left blank. By contrast, McDonald's birth certificate, the following year, gives Neutrice's name as "Neutrice Durant" and her former surname as "Noel" and states "Stanley Durant" as the father and his occupation as "mason". That instance of the use of Stanley's surname (albeit misspelt) by Neutrice is the only one in evidence. Stella's marriage certificate gives her father's name as Stanley Durant Noel. There is no instance in evidence of Stella using Durant or Dorant as her own surname.

103. If Stanley had been Stella's father, then it was permissible for the registrar to have recorded that fact if the parents agreed and the father signed the register. Stanley's name was included on McDonald's birth certificate but not on Stella's birth certificate. Neutrice herself must have been the source of the information recorded on the certificates in each case even though it was Neutrice who was the informant in McDonald's case and a hospital official in Stella's. If Stanley was prepared to acknowledge one of Neutrice's children it is notable, if he were the father, that he was not prepared to acknowledge the other. It is notable also that it was only in McDonald's case that Neutrice claimed Stanley's surname for herself. If she had believed Stanley was Stella's father one might expect Neutrice to have claimed Stanley's name for herself, and thus Stella, in Stella's birth certificate.

104. That Stella must have told the priest who recorded the details that are found in her marriage certificate in 1958 that her father was "Stanley Dorant Noel", is admissible evidence under the common law exception. Neutrice died when Stella was only 4 years old and Stella cannot have had any reliable recollection derived from Neutrice about her paternity. Stella's possible sources of belief that Stanley might have been her father would be Stanley himself or an inference from the knowledge of McDonald's paternity that Stanley was her father also. There is no evidence of contact between Stella and Stanley.

105. I conclude that the correct inference to be drawn from the marriage certificate is that Stella, when asked who her father was, named her half-brother's father, Stanley, as her own father rather than say that she did not know. It is to be noted that she attributed the surname "Noel" to him, which is not a name there is any evidence he ever used, but is an attribution which would make sense of her own surname. Neither Stella nor Neutrice are known to have made any other written declarations that Stanley was Stella's father.

106. Gerard's evidence that Stella told him that Stanley was her father lacks particularity save that he refers back to her marriage certificate; any statement to Gerard about Stella's paternity is no more likely to be accurate than what was recorded in that document and to have been said for the same reason: to give an answer to a question rather than say that she did not know. It is also striking that Gerard's assertion that Stanley was his grandfather was first made at a very

late stage in proceedings. Even if he was led to believe he could not prove Stanley was his grandfather by the work of the genealogists, if Gerard believed Stanley was his grandfather it is to be expected that he would have said so at an earlier stage. Gerard has not been cross-examined, but I conclude that I should not place significant reliance on his evidence of oral declarations of her paternity by Stella.

107. Shaka's evidence of his mother's statement about Stanley fathering two children with another woman, is inadmissible hearsay as his mother is alive, and the surrounding detail in the statement is in any event wrong. Denise's recollection that St Clair told her he had a half-sister, Stella is again accompanied by inaccurate additional detail.

108. None of this evidence, if admissible, is sufficiently reliable to enable a positive conclusion about Stella's paternity to be drawn.

109. So far as concerns the autosomal DNA evidence, although supportive of Stanley being Stella's father there is an LR of less than 12, which is not high enough to displace the conclusion I have reached from the other evidence.

110. I am not satisfied on the balance of probabilities that Stella was Stanley's child.

#### **Anyone else?**

111. There are references in the witness statements to McDonald visiting Trinidad to look for a son he thought he might have fathered. That evidence is hearsay from other living family members. It appears that McDonald did make an inquiry with the Salvation Army Family Tracing Services in January 2002 but it is unclear which relative he was trying to trace. It may be safely inferred that nothing came of this and McDonald found no relatives other than those discussed in this judgment.

#### **Result**

112. For the reasons I have explained I conclude that Stanley's biological children were McDonald, St Clair and Francis only. Accordingly I will direct that distribution of the estate should be amongst the issue of McDonald's half-siblings.